

### **REMARKS**

Entry of the foregoing, reexamination and further and favorable reconsideration of the subject application in light of the following remarks, pursuant to and consistent with 37 C.F.R. § 1.112, are respectfully requested.

The Office Action Summary correctly indicates that claims 9-12 are pending in the application. Claims 9-11 have been rejected.

Claims 9 and 12 have been amended.

Claim 9 has been amended to recite a Markush group for the various diseases and/or conditions capable of being treated by the claimed method. Support for these amendments can be found throughout the originally filed application. Claim 11 has been canceled without prejudice or disclaimer to any subject matter described therein. Claim 12 has been amended to depend from claim 9 in view of the cancellation of claim 11, and to better set forth the antecedent basis of the subject matter recited therein.

No prohibited new matter has been introduced by way of the above amendments. Applicants reserve the right to file a continuation or divisional application on subject matter canceled by way of this Amendment.

### **Rejections under 35 U.S.C. § 102**

Claims 9-11 have been rejected under 35 U.S.C. § 102 as allegedly anticipated by Blache et al. (U.S. Patent No. 5,523,322). Claim 12 has been indicated as allowable, except for its dependence on claim 11.

The Office has alleged that Blache et al. teaches a method of inhibiting blood-platelet aggregation by administering compounds that include the compounds used in the presently

claimed methods. The Office further alleges that the method of Blache et al. anticipates methods of treating blood-pressure disorders. The rejection is respectfully traversed.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 +(Fed. Cir. 1987).

Blache et al. describes the use of certain compounds for the treatment of disorders associated with blood-platelet aggregation in general and discloses a limited number of such conditions associated with vascular injury associate with atherosclerosis and clot formation (thrombotic complications) and the prevention of ischemic injuries associated therewith.

Blache et al. does not teach, or even suggest, that those compounds may be used in a method of treating a disease and/or condition associated with the excessive release of glutamate as recited in claim 9. In particular, contrary to the allegation of the Office, blood-pressure disorders are not found among the conditions that Blache et al. purportedly teaches. The Office provides no evidence or basis for concluding that blood pressure disorders are inherently among the disorders taught by Blache et al. Furthermore, to the extent that Blache et al. teaches the prevention of ischemia, such teaching is limited to prevention of ischemic injuries caused by disorders of blood-platelet aggregation. Blache et al. does not teach or suggest treatment or prevention of ischemia associated with excessive glutamate release. Therefore, Blache et al. fails to anticipate the claims as previously presented.

Nevertheless, without acquiescing to the alleged reasons for the rejection, claim 9 has been amended to recite diseases and/or conditions associated with the excessive release of glutamate that were formerly recited in claim 11. Claim 9, as amended, recites that the disease and/or condition associated with the excessive release of glutamate selected from the

group consisting of epileptic seizures, acute neurodegenerative diseases, chronic neurodegenerative diseases, drug-induced neurotoxicity, pain, hormonal balance disorders, thermoregulation disorders, respiration disorders, learning disorders, pattern recognition disorders, memory disorders, and disorders subsequent to hypoxia or hypoglycaemia. Blache et al. clearly does not teach or suggest all the elements of claim 9, as amended. Accordingly, withdrawal of the rejection is respectfully requested.

### CONCLUSION

In view of the foregoing, further and favorable action in the form of a Notice of Allowance is believed to be next in order. Such action is earnestly solicited.

In the event that there are any questions relating to this application, it would be appreciated if the Examiner would telephone the undersigned concerning such questions so that prosecution of this application may be expedited.

The Director is hereby authorized to charge any appropriate fees that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800.

Respectfully submitted,

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Date: February 21, 2006

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